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NOTTINGHAM et al. v. ACKISS.

March 10, 1910.

[67 S. E. 351.]

1. Debt, Action of (§ 1*)—Nature of Action.—The action of debt lies only for the recovery of a certain sum of money due by a certain and express agreement.

[Ed. Note.—For other cases, see Debt, Action of, Cent. Dig. § 1; Dec. Dig. § 1.* 4 Va.-W. Va. Enc. Dig. 275.]

2. Bills and Notes (§ 468*)—Collateral Agreement—Action—Pleading.—Where the parties to a note for the price of land agreed in writing that the note, though payable on demand, should be paid only on condition of a resale of all or a part of the land and the price thereof being realized, a declaration on the note does not state a cause of action, if it fails to allege, not only a sale of the land, but also the payment by the purchaser of the price, and when the same was paid.

[Ed. Note.—For other cases, see Bills and Notes, Cent. Dig. §§ 1462, 1463; Dec. Dig. § 468.* 4 Va.-W. Va. Enc. Dig. 286; 14 id. 309.]

Error to Law and Chancery Court of City of Norfolk.

Action by one Ackiss, as assignee, against F. E. Nottingham and others on a note. Plaintiff had judgment, and defendants bring error. Reversed.

Burroughs & Bro., for plaintiffs in error.

Wm. McK. Woodhouse, for defendant in error.

SOUTHERN RY. CO. v. LEWIS.

March 10, 1910.

[67 S. E. 357.]

1. Master and Servant (§ 105*)—Injuries to Servant—Care Required of Master.—The ordinary care which a master is required to exercise to furnish a reasonably safe place to work is to be determined by the general usages of the business.

[Ed. Note.—For other cases, see Master and Servant, Cent. Dig. §§ 185-191; Dec. Dig. § 105.* 9 Va.-W. Va. Enc. Dig. 689; 14 id. 689.]

2. Master and Servant (§ 293*)—Injuries to Servant—Action—Instructions.—In an action for injuries to a brakeman who, while climbing up the side of a car, was injured by being struck by a switch target, the evidence showed that the switch stand was one in common use by defendant and other railroads, and that it was placed, as all such stands were placed by defendant and other railroads, so as to leave a space of two feet between the lamp and the side of any car,

*For other cases see same topic and section NUMBER in Dec. & Am. Digs. 1907 to date, & Reporter Indexes.